

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KARL JULIUS JAMES,

Petitioner,

v.

Case No. 07-C-735

MICHAEL THUMER,

Respondent.

DECISION AND ORDER

Karl Julius James, an inmate at Waupun Correctional Institution, has filed a petition pursuant to the All Writs Act, 28 U.S.C. § 1651. In his petition he seeks an order from this court allowing him to listen to a tape sent to him by the Milwaukee Police Department. He asserts that the tape is a recording of 911 calls regarding the circumstances surrounding his conviction for murder. He believes the calls are exculpatory evidence and that he should therefore be allowed to listen to the tape. The prison has told him he can listen to the tape only upon its receipt of a court order to that effect.

The All Writs Act does not create federal jurisdiction but merely allows courts already possessed of jurisdiction to issue writs “in aid of their jurisdiction.” 28 U.S.C. § 1651. Thus, before getting to the specific relief petitioner seeks, I must first determine whether there is a federal case or controversy. Essentially, what James seeks is discovery pertinent to his criminal conviction. To that extent, this court cannot envision how it would have jurisdiction over a dispute pertaining to evidence in James’ state conviction. James is simply having a dispute with prison staff about access

to a cassette tape, and that, if anything, is a dispute arising under state law. To the extent James alleges the tape is actually exculpatory, his petition could be construed as seeking a writ of habeas corpus, and for that there is a statutory remedy (28 U.S.C. § 2254 would apply because James is still in custody), making reliance on the All Writs Act unnecessary. But James does not seek this relief – he merely wants a court to order the prison to allow him to hear the tape, and that is a dispute over which this court lacks jurisdiction.

Accordingly, the petition is ordered **DISMISSED**.

Dated this 30th day of August, 2007.

s/ William C. Griesbach
William C. Griesbach
United States District Judge